1950.

File No. S. Bel 3/50

K

Legal DEPARTMENT

A BRANCH

Subject:—

Institution of — against Mr. L.R. Nadgir for recovery of Rs. 322-8-0 for causing damage to a wheel weigher belonging to the Regional Transport office, Belgaum.

P 15F

Govt. Scott. Slip 24 A—1626—1,00,000—6-49

File No. S-Bel-3-50

S. Bel

C O N T E N T S.

Legal Department File No. 5. Bel. 3/50 -

Sr.No.	R.I./O.No.	Subject	Pages.
		Suits Belgaum.	
		Institution of - against Mr. L.R. Nadgir for recovery of Rs. 322-8-0 for causing damage to a wheel weigher belonging to the Regional Transport office, Belgaum.	1-20.

Legal Dept.

As desired in this office letter dt. 8/4/49 the R.T.O. Belgaum has forwarded the copies of his correspondence for necessary action. The R.T.O. proposes to file a suit against one Mr. Nadgir for recovery of Rs. 322/8/- as compensation for the damaged caused by Mr. Nadgir's tractor driver to a wheel weighing machine belonging to Govt. under his letter dt. 3/3/49 addressed to Mr. Nadgir a demand for the said amount has been made by the R.T.O. but no payment has been made as yet. The accident took place on 29/5/48 and a suit for recovery of the damages is to be filed before 29th May 1949.

Submitted for orders.

28/4

A.S. Papers should be put up under a docket sheet.

28/4

A docket sheet has been put up.

28/4

A.S.

PROVINCIAL TRANSPORT OFFICE,
File No 28
Date 28/5/49
Serial No. 8835

33
3

A "wheel weigher" machine belonging to the Regional Transport Office , Belgaum was damaged while it was being used for weighing the tractor of one L.R. Nadgir. The damage was caused by the rash and negligent act of the driver of the tractor who was Mr. Nadgir's servant. The damage was repaired at a cost of Rs. 322-8-0 and that amount is to be recovered from Mr. Nadgir and his servant by filing a suit.

Institution of the suit may be sanctioned on the lines of the appended brief.

RLA 28/5/49

RLA 28/5/49

See P.T.C. A

3492

x No. 5886

35 S

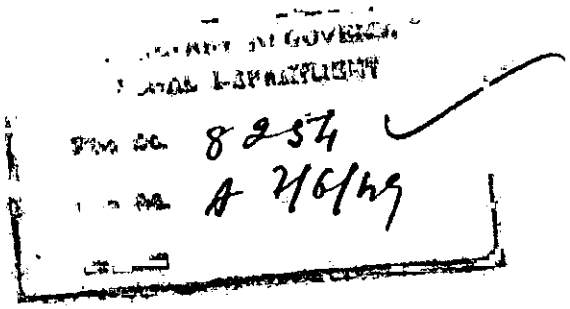
P.T.Office.

Seen and returned with compliments to the R.L.A. for taking necessary steps regarding filing the suit.

I have no further suggestions to offer.

for P.T.Officer.

U.o.r. to R.L.A. No. 28/6495, dated 1-6-1949.



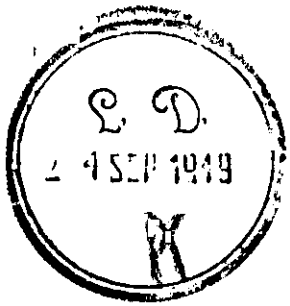
39

No. J. 264 of 1949.
Belgaum, 19th Sept. 1949.

To,

The Remembrancer of Legal Affairs, Bombay.

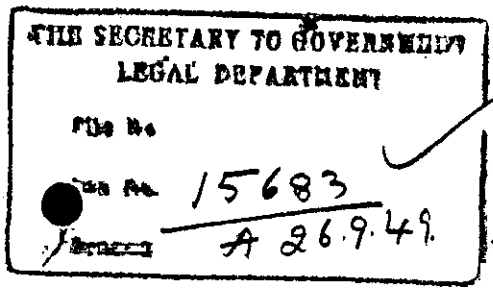
Subject:- Suit for the recovery of Govt. dues for damaging Government property from Mr. L.R. Nadgir of Ranibennur.



Sir,

I have the honour to send herewith a draft of plaint to be presented in the Court for your approval. The draft may kindly be perused and returned after your approval for the presentation in the court at an early date. This has to your reference No. 6251 dated 4-6-1949.

Yours faithfully,



Sd/ B.V.Jakati.

Dist.Govt. Pleader, Belgaum.

--------o--------

No. J. 265 of 1949.
Belgaum, 19th Sept. 1949.

Copy forwarded withcompliments to the Regional Transfort Officer, Belgaum for infprmation

Dist. Govt. Pleader, Bgm.

Legal dept.

Please see overleaf a letter from the D.G.P. Belgaum forwarding a copy of the plaint in a suit to be filed against Mr. L. R. Nadgir for recovery of the dues for damaging Govt. property. The draft plaint is forwarded for R/C.M's approval

For orders.

28/9
27/9

A.S. The plaint is in order & may be

Approved
R
27/9

RCM
27/9

Reg..O.S.No. 419 43
1949.

In the Court of the Civil Judge, S. Dn., Belgaum.

1. The Province of Bombay. .. Plaintiff.

Vs.

1. Lakshmipatirao Hanamantrao Madgir Caste, Hindu, Age, Occupation Landlord, of Ranibennur Dist. Dharawar.
2. Mr. S.J.Gachimani, Caste Hindu, Age - Occupation Driver, of Ranibennur - District Dharawar.

Defendants.

Claim Rs:-322-8-0, Both for Court fees and Juridiction.

In this the plff above named states as follows:-

1. The deft No.1 was the owner of the tractor on - 29-5-1947. Deft No.2 was the driver of the tractor employed by the deft No.1.

2. On 29-5-1947 the deft No.1 had brought his tractor to the Regional Transport Office, Belgaum for weighing it on the wheel weigher of the said office. The deft No.2 - was the driver of the tractor and was then acting under the direction and supervision of the deft No.1. The wheel weigher was damaged on 29-5-1947, while it was being used by the deft No.2 for weighing the tractor belonging to deft No.1. The damaged was caused as a result of the gross negligence of the deft No.2, who was the servant of deft. No.1. On account of Deft No. 2's gross carelessness and negligence, the rear wheel of the tractor dashed into the wheel weigher and so caused considerable damage to the machine, which had to be got repaired by Messers Avery - Limited, Bombay, at a cost of Rs.322-8-0. The deft No.1 is under a vicarious liability to make good the loss - incurred by the plff for the tort-committed by deft No.2 in the course of his employment. Deft No.2 is also liable for the same.

3. At the time of the incident which damaged the plff's wheel weigher, the deft No.2 was the servant of deft No.1 and was acting in the course of deft No.1's employment. The damage was caused to the said wheel weigher by the gross negligence of the deft No.2 who was the driver of the tractor belonging to deft No.1. The damage caused was to the extent of Rs.322-8-0. Hence the deft Nos1 and2 are both liable to compensate for the loss caused to plff. The deft No.1 was called upon by notice in writing to make good loss, but he did not take any serious need of the matter. Hence this suit is filed to recover damages of Rs. 322-8-0 from defts.

4. The cause of action arose on 29-5-1947, where damage was caused.

5. The value of the suit for court fees and - juridiction is Rs. 322-8-0. i.e the expences incurred by plff for repairing the machine.

6. This court has juridiction to try this suit as the cause of action arose within the local limits of this court.

7. The plff prays:-

(a) Decree may kindly be passed against the two defendants for recovery of Rs. 322-8-0 and for the future interest and costs of this suit.

(b) Any other relief the Court is pleased to grant should be given.

(c) Amendment of the plaint should be allowed if necessary.

Drafted and presented by

Dist. Govt.Pleader,Belgaum.

I, B.V.Hakati Esquire, Dist. Govt. Pleader, Belgaum do hemby declare that what is stated in paragraphs to 7 above is true to the information received and eved to be true.

Dist.Govt.Pleader,Belgau

No. 140 dated 4 Feb '50,
Office of the Dist Govt Pleader,
Dharwar.

To

The Remembrancer of Legal Affairs,

Bombay.

Sub : Suit for the recovery of Government dues for damaginf Government property from Mr. L.R.Nadgir of Ranibennur.

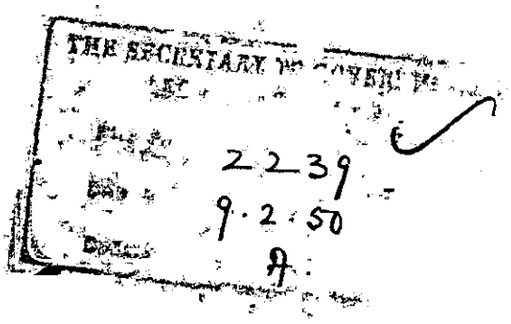
Ref :- R.L.A's Memo No.6251 dated 4th June '49.

Sir,

I have the honour to inform you that the institution of the suit noted above is sanctioned and the Dist Govt. Pleader, Belgaum was informed that the draft plaint was approved. (Vide your Memo No. 11129 dated 5th Oct 1949).

Now all the papers are sent to me for filing the suit in the Court of the Civil Judge, S.D., Hubli as the cause of action arose within the jurisdiction of that Court and not in Belgaum Court.

It is therefore requetsed to sanction the institution of the suit in Hubli Court as early as possible.



All the papers accompany.

Yours faithfully,

R.V.Jathar

Dist. Govt. Pleader.

~~Forwarded through the Collector, Dharwar, with compliments.~~

Legal dept.

Please see the letter overleaf from D.G.P. Dharwar.

The damage to the wheelweights was caused at Ranibennur in Dharwar District (vide letter at slip 'B')

Mr. Nadgir as well as his driver are residents of Ranibennur (vide slip A)

The suit will have therefore to be instituted ~~at Dharwar~~ in the Court of the C.J. (S.D.) Hubli. ~~Dharwar~~.

Sanction may be accorded to the institution of the suit in Hubli Court.

1881.
9/2

A.S. [illegible]

Suits :

Belgaum.

Institution of — against **Mr.** L. R. Nadgir for recovery of Rs. 322-8-0 for causing damage to a wheel weigher belonging to the Regional Transport Office, Belgaum.

GOVERNMENT OF BOMBAY.

LEGAL DEPARTMENT.

Resolution No. 7354.

Bombay Castle, 2nd July 1949.

Endorsement from the Regional Transport Officer, K. R., Belgaum, forwarding a copy of his letter No. 7782/3-L/KR of 1949, dated the 21st December 1948, addressed to the Provincial Transport Officer, Bombay, and requesting sanction to the institution of a suit against Mr. L. R. Nadgir for recovery of Rs. 322-8-0 for causing damage to a wheel weigher belonging to the Regional Transport Office, Belgaum.

Memorandum to the District Government Pleader, Belgaum, No. 6251, dated the 4th June 1949—Forwarding a copy of the Memorandum of Instructions with its accompaniments in advance.

RESOLUTION.—Sanction is accorded to the institution of a suit in the Court of the Civil Judge, Senior Division, Belgaum, against Mr. L. R. Nadgir on the lines of the accompanying Memorandum of Instructions.

By order of the Governor of Bombay,

P. M. LAD,

Original -Secretary to Government.

To

*The Provincial Transport Officer, Bombay,
*The Regional Transport Officer, K. R., Belgaum,
*The Collector of Belgaum,
The District Government Pleader, Belgaum (with two copies of the Memorandum of Instructions).

* With a copy of the Memorandum of Instructions.

No. of 1949.

Copy forwarded for information and guidance to

Subtd. after issue
File in S. Belgaum/50
(new)

15
57

MEMORANDUM OF INSTRUCTIONS.

Suit: Belgaum—against Mr. L. R. Nadgir for Rs. 322-8-0.

The Regional Transport Officer, Belgaum, has proposed that a suit should be filed against Mr. L. R. Nadgir for recovering from him Rs. 322-8-0 for the damage caused to the wheel weigher of the Regional Transport Office, Belgaum.

It appears that the said wheel weigher was damaged on 29th May 1947 while it was being used for weighing a tractor belonging to Mr. Nadgir. The damage was caused as a result of gross negligence of the driver of the tractor who was the servant of Mr. Nadgir. On account of the driver's carelessness, the rear wheel of the tractor dashed into the wheel weigher and so caused considerable damage to the machine which had to be got repaired by Messrs. Avery Limited, Bombay, for Rs. 322-8-0. Mr. Nadgir is under a vicarious liability to make good this amount to Government for the tort committed by his servant in the course of his employment.

Government will have to prove the following facts :—

(1) that the damage to the wheel weigher was caused by the gross negligence of the driver of the tractor ;

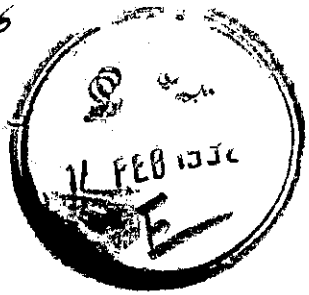
(2) that the damage was to the extent of Rs. 322-8-0.

(3) that at the time of the incident the driver of the tractor was the servant of the defendant Mr. Nadgir.

(4) that the servant committed the tort in the course of his employment.

The District Government Pleader should, in consultation with the Regional Transport Officer, Belgaum, lead such evidence as may be available and necessary to prove Government's case. The suit should be filed in the Court of the Civil Judge, Senior Division, Belgaum, on behalf of the Province of Bombay. Both Mr. Nadgir and the driver of the tractor should be impleaded as defendants. The Court should be moved to pass a decree for Rs. 322-8-0 against both the defendants with future interest and costs.

S. Belgaum
3/56



5217 d no. 14 dated 2-2-52
Office of the Sub Govt-
Pleader Hubli

To,

The Remembrancer of Legal
Affairs Bombay.

Subject:- Decision in L.C.S. no. 86/50
of the Hubli Court-

THE SECRETARY TO GOVERNMENT
LEGAL DEPARTMENT
File No. 3069
Date 12/2/52
Branch
4 FEB 1952

Sir,

With reference to the above
suit, I have to submit that the
suit has been decided in favour
on 31-1-1952
of the Government. The suit has
been decreed for the full amount
of Rs 322-8-0 with costs. I shall

send the copies of Judgment & decree as soon as I obtain the same from the court

Yours Faithfully

B.R. Mathad

Sig.

Submitted through the Collector of Dharwar

Sub'd for information Result being favourable may be recorded after copies of Judg't & decree are rec'd Till then this may be filed in S. Bel 8/50

SOLAO.

Dharwar 6—2-52

Submitted to the Remembrancer of Legal Affairs, Bombay.

For Collector of Dhw

S. Bel. 3/50 13—2

12/2

3/50

No.28/6495.
Provincial Transport Office,
Industrial Assurance Bldg.
Churchgate, Bombay.
14 May 1949.

To

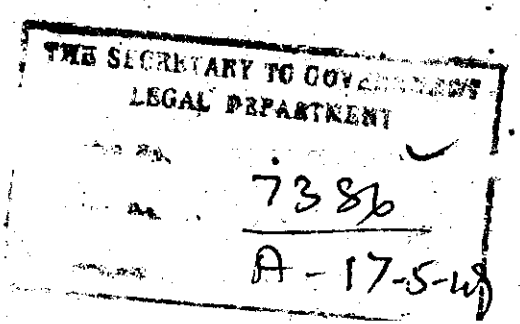
The Remembrancer of Legal Affairs,
Government of Bombay,
Bombay.

Subject:- Recovery of Government dues for damaging Government property - wheel weighers of the Regional Transport Officer, Belgaum -

Reference:- This office No.28/6495 dated 16th April 1949.

Please refer the above correspondence and state when a final decision on the matter may be expected, as the Regional Transport Officer, Belgaum is pressing for your decision.

For Provincial Transport Officer.



Legal dept.

The pltfs. of this case have
submitted A.S. for brief

18/5-

A.S. Informs has sent
matter to receiver
a New Trial